



# California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, PE, Chair

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Arnold  
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Governor

Linda S. Adams

Secretary for  
Environmental Protection

27 May 2009

APPROVED

Staff

Supervisor

Mr. Steven Osborn  
Kinder Morgan Energy Partners  
P.O. Box 1318  
Rocklin, CA 95677

CERTIFIED MAIL  
7006 2150 0000 7132 1999

## **ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2009-0543 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, KINDER MORGAN ENERGY PARTNERS, L.P. FOX ROAD RELEASE SITE, SOLANO COUNTY**

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code (CWC) section 13385, for violations of Waste Discharge Requirements (WDRs) Order R5-2008-0008 (NPDES No. CA0084760), and Time Schedule Order R5-2008-0009 at the Kinder Morgan Energy Partners, L.P. Fox Road Petroleum Release Site. The Complaint charges Kinder Morgan Energy Partners, L.P. (Discharger) with civil liability in the amount of **nine thousand dollars (\$9,000)**, which represents the sum of accrued Mandatory Minimum Penalties (MMPs) for effluent limitation violations which occurred from 1 January 2008 through 31 December 2008.

Pursuant to CWC section 13323, the Discharger may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **26 June 2009**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting both the waiver and a letter describing the issues to be discussed to this office by **26 June 2009**; **or**
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be considered final pending a 30-day period, starting from the date of this Complaint, during which time interested parties may comment on this action by submitting information to this office, attention Barry Hilton. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are

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not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

If the Central Valley Water Board does not receive a signed waiver within 30 days of the date of this Complaint (**by 26 June 2009**), then a hearing will be scheduled for the **13/14 August 2009** Central Valley Water Board meeting in Rancho Cordova. The Central Valley Water Board's Prosecution Team has prepared the enclosed draft Hearing Procedure to govern the conduct of such a hearing. Any objections to this draft Hearing Procedure must be received by Lori Okun, whose contact information is listed in the draft Hearing Procedure, by **5 p.m. on 3 June 2009**.

Any comments or evidence concerning the enclosed Complaint must be submitted in accordance with the deadlines contained in the draft Hearing Procedure, unless these deadlines are changed by the Central Valley Water Board's Adjudicatory Team, either on their own accord or upon request.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

[http://www.waterboards.ca.gov/centralvalley/tentative\\_orders/](http://www.waterboards.ca.gov/centralvalley/tentative_orders/).

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Barry Hilton at (916) 464-4762.

WENDY WYELS

Supervisor

Compliance and Enforcement Section

Enclosure: ACLC R5-2009-0543

Draft Hearing Procedure

Hearing Waiver

cc w/o encl: Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco

Mr. Kenneth Landau, Adjudicatory Team, Central Valley Water Board, Rancho Cordova

Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento

Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento

Ms. Lori Okun, Office of Chief Counsel, SWRCB, Sacramento

Ms. Emel Wadhwani, Office of Chief Counsel, SWRCB, Sacramento

Ms. Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova

Solano County Department of Resource Management, Fairfield

Mr. Bill Jennings, California Sportfishing Protection Alliance, Stockton